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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,581	02/26/2002	Yu-Cheun Jou	020278	8984
23696	7590	02/01/2010	EXAMINER	
QUALCOMM INCORPORATED			PATEL, NIRAV B	
5775 MOREHOUSE DR.			ART UNIT	
SAN DIEGO, CA 92121			PAPER NUMBER	
			2435	
			NOTIFICATION DATE	
			DELIVERY MODE	
			02/01/2010	
			ELECTRONIC	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/085,581	Applicant(s) JOU ET AL.	
	Examiner NIRAV PATEL	Art Unit 2435	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 11 January 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1,3-6,8-10,20,22-25,27-29 and 39-42.
Claim(s) withdrawn from consideration: None.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____

/Kimyen Vu/
Supervisory Patent Examiner, Art Unit 2435

Continuation of 11 does NOT place the application in condition for allowance because: Applicant's arguments filed 01/11/2010 have been fully considered but they are not persuasive.

Regarding to applicant argument to 35 USC 101:

Applicant's argument to claims 1, 3-5, 6, 8-10 are persuasive and therefore the 101 rejection for the above claims are withdrawn. Further, applicant's argument for claims 20, 22-24, 25, 27-29, 39, 40 are not persuasive and therefore, Examiner maintains the 35 USC 101 rejection. Examiner disagrees with the applicant's remark that software embodiment of the above claims are tied to the "apparatus" of these claims, since the apparatus claim does not explicitly include a hardware component/element. As per the specification [page 15, paragraph 1055] of the present application, the various logical blocks, modules, circuits and algorithms steps described in the present application may be implemented as electronic hardware, computer software or combination of both. Therefore, the claimed apparatus is not limited to hardware only or a combination of hardware and software only, instead being sufficiently broad so as to encompass software alone. As such, the claimed apparatus must include the hardware necessary to realize any of the functionality of the claimed modules and produce a useful, concrete and tangible result. Absent recitation of such hardware as part of the claimed system, it is considered non-statutory

Regarding to applicant argument to 35 USC 103:

Examiner disagrees with applicant since examiner pointed out in the last response dated on 11/25/09, that the combination of Dent and Heikkila teaches the argued claim limitation. Dent teaches the subinterval of a system time interval (i.e. the time slot) and control channel (FACCH) as mention in the last office action page 13. Fig. 5 illustrates the arrangement of data in each time slot of a frame where the information transmitted over control channel. Dent discloses that the keystream means a pseudo-random sequence of binary bits or block of bits used to encipher a digitally encoded message or data signal prior to transmission. Encryption is performed by a modulo-2 addition of the keystream to the data to be encrypted. Further, Heikkila teaches a time-slot specific scrambling sequence bits are read out and added by modulo-2 arithmetic to the data bits. Therefore, the combination of Dent and Heikkila teaches "determining the metric based on a subinterval of a system time interval of a control channel in which the information bits of control message are to be transmitted; scrambling the information bits of the control message with the determined scrambling sequence...". Based on the reason above the cited prior art teaches the claim limitation, however, if the applicant believes that the pending claims are distinct from the cited prior art, applicant needs to further explain distinguish between the claim limitation and the prior art or further clarify the claim limitation.